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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SALEH ELGHASEN,  
Plaintiff,

v.

RBS COMPUTER, INC., d/b/a ROYAL  
MANAGEMENT CORPORATION; and  
EXPERIAN INFORMATION SOLUTIONS,  
INC.,  
Defendants.

CASE NO. 2:14-cv-01539-JAD-GWF  
(Lead Case)

(Consolidated with 2:14-cv-01538: Member  
Case)

**MOTION TO DISMISS FIRST  
AMENDED COMPLAINT FOR LACK  
OF PERSONAL JURISDICTION**

Defendant RBS Computer, Inc. ("RBS"), by and through its undersigned counsel,  
respectfully moves this honorable Court to dismiss (the "Motion to Dismiss") the First Amended  
Complaint for Damages Pursuant to the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.  
(herein, the "Amended Complaint") of Plaintiff Saleh Elghasen ("Plaintiff"), pursuant to Fed. R.  
Civ. P. 12(b)(2), for lack of personal jurisdiction.

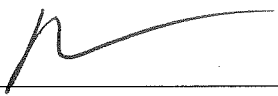
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1 The Motion to Dismiss is supported by the following Memorandum of Points and  
2 Authorities, the exhibits attached hereto, the record herein, and any argument that may be  
3 presented at any hearing hereon.

4 DATED this 13<sup>th</sup> day of January, 2015.

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**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

Plaintiff's Amended Complaint must be dismissed as against RBS because Plaintiff cannot produce any competent evidence establishing personal jurisdiction over RBS in Nevada. RBS has had no specific contacts with Nevada sufficient to confer jurisdiction over it. In this regard:

- (a) RBS is a Texas corporation with only one office, which is located in the State of Texas;
- (b) RBS does not conduct business in Nevada, and has no offices in Nevada;
- (c) RBS does not direct any communications, written or oral, to the State of Nevada;
- (d) RBS has never directed any employee or agent to conduct any activity in Nevada whatsoever;
- (e) RBS does not own any property in the State of Nevada; and
- (f) RBS has never had a bank account in the State of Nevada.

(See the Declaration of Rebecca I. Hudson, attached hereto as Exhibit A.)

RBS' "contacts" with Nevada are legally insufficient under the prevailing law relative to this Court to sustain personal jurisdiction over it, and, accordingly, it should be dismissed from these proceedings.

**II. PLAINTIFF'S AMENDED COMPLAINT SHOULD BE DISMISSED  
FOR LACK OF PERSONAL JURISDICTION OVER RBS**

**A. Standard of Review**

Where, as here, no federal statute governing personal jurisdiction is applicable, federal courts apply the law of the state in which the district court sits. *Core-Vent Corp. v. Nobel Industries AB*, 11 F.3d 1482, 1484 (9th Cir. 1993). In Nevada, personal jurisdiction is governed

1 by NRS 14.065, which provides that “[a] court of this state may exercise jurisdiction over a party  
 2 to a civil action on any basis not inconsistent with the Constitution of this state or the  
 3 Constitution of the United States.” The statute follows constitutional guidelines, and jurisdiction  
 4 is properly challenged by way of a motion to dismiss. *See, e.g., Hansen v. District Court*, 116  
 5 Nev. 650, 656, 6 P.3d 982, 986 (2000).

6  
 7 “Where a defendant moves to dismiss a complaint for lack of personal jurisdiction, the  
 8 **plaintiff bears the burden** of demonstrating that jurisdiction is appropriate.” *Schwarzenegger v.*  
 9 *Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004) (citing *Sher v. Johnson*, 911 F.2d  
 10 1357, 1361 (9th Cir. 1990) (emphasis added). A plaintiff cannot simply rest on the bare  
 11 allegations of the complaint to meet this standard. *Id.*

12  
 13 “For a court to exercise personal jurisdiction over a nonresident defendant, that defendant  
 14 must have at least ‘minimum contacts’ with the relevant forum such that the exercise of  
 15 jurisdiction ‘does not offend traditional notions of fair play and substantial justice.’” *Id.* at 801  
 16 (quoting *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)). This “minimum  
 17 contacts” test must be established by showing that either “general” or “specific” contacts exist  
 18 between the defendant and the forum state such that the forum state may exercise personal  
 19 jurisdiction over it. *See Boschetto v. Hansing*, 539 F.3d 1011, 1015 (9th Cir. 2008). As set forth  
 20 below, neither general nor specific jurisdiction exists over RBS in Nevada.

#### 21 22 (1) No General Jurisdiction Exists Over RBS

23  
 24 General jurisdiction, under which a defendant is held to answer in a forum for causes of  
 25 action unrelated to the defendant’s forum activities, is available only where that “defendant’s  
 26 activities in the forum are substantial, continuous and systematic.” *Doe v. Unocal Corp.*, 248  
 27 F.3d 915, 923 (9th Cir. 2001).  
 28

Here, there are no “substantial” or “continuous and systematic” contacts of RBS sufficient to support a finding of general jurisdiction. Specifically, RBS does not conduct business in Nevada, has no offices in Nevada, does not direct any communications to the State of Nevada,<sup>1</sup> does not own (and has never owned) property in Nevada, has never had a bank account in the State of Nevada, and has never directed any employee or agent to conduct any activity in Nevada whatsoever. (See Exhibit A, at ¶¶ 6, 8-10.) Accordingly, no general jurisdiction exists over RBS in this forum.

### (2) No Specific Jurisdiction Exists Over RBS

In the Ninth Circuit, a three-part test is applied to determine whether subjecting a defendant to specific jurisdiction is appropriate. *Boschetto*, 539 F.3d at 1016. First, the defendant “must purposefully direct his activities or consummate some transaction with the forum or resident thereof; or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws.” *Id.* Second, the claim asserted by the plaintiff “must be one which arises out of or relates to the defendant’s forum-related activities.” *Id.* To the extent the plaintiff does not bear its burden to establish both of these prongs, “the jurisdictional inquiry ends and the case must be dismissed.” *Id.* (emphasis added). The third prong, which requires that “the exercise of jurisdiction ... comport with fair play and substantial justice, i.e., it must be reasonable,” is therefore applicable only where the plaintiff has established the first two prongs. *Id.*

Here, with respect to the first prong, Plaintiff cannot establish that RBS has purposefully

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While Plaintiff alleges that a proof of claim was filed in his bankruptcy which requested that all notices be sent to RBS’ address in San Antonio, Texas (see Amended Complaint, at ¶ 20), it is clear that the referenced proof of claim was filed by or on behalf of Family Finance, not RBS. (See the Declaration of Katie M. Weber, attached hereto as Exhibit B, at ¶ 5 and Exhibit B-3.)

1 directed any activities at the State of Nevada. As mentioned, RBS does not conduct business in  
 2 Nevada, has no offices in Nevada, does not direct any communications to the State of Nevada,  
 3 does not own (and has never owned) property in Nevada, has never had a bank account in the  
 4 State of Nevada, and has never directed any employee or agent to conduct any activity in Nevada  
 5 whatsoever. (*See* Exhibit A, at ¶¶ 6, 8-10.) While Plaintiff has alleged that RBS “purchased,  
 6 acquired, or otherwise obtained” his personal loan (*see* Amended Complaint, at ¶ 19), RBS  
 7 specifically denies this allegation. To the contrary, RBS does not own any loans, but merely  
 8 provides accounting and bookkeeping services for various businesses/entities. (*See* Exhibit A, at  
 9 ¶ 7.) The remainder of Plaintiff’s allegations relate to information purportedly furnished to a  
 10 credit reporting agency, Experian, a company which, upon information and belief, has no Nevada  
 11 offices. (*See generally* Amended Complaint; *see also* Exhibit B, at ¶¶ 3-4 and Exhibits B-1 and  
 12 B-2.) In short, RBS has not engaged in any activities within, or directed to, the State of Nevada,  
 13 and has therefore not “purposefully availed” itself of the privilege of conducting any activities  
 14 there.  
 15  
 16

17 With respect to the second prong, Plaintiff’s sole claim for relief asserted herein is for  
 18 violation of the Fair Credit Reporting Act (“FCRA”). (*See generally* Amended Complaint.) At  
 19 best, Plaintiff alleges that RBS provided certain inaccurate information to Experian, received  
 20 notification from Experian of Plaintiff’s dispute regarding the information, and failed to remove  
 21 the inaccurate information and/or added additional derogatory information to Plaintiff’s credit  
 22 report. (*See id.* at ¶¶ 24, 27, 31-32, 36.) None of these allegations are alleged to have occurred  
 23 in Nevada, or to have been directed to Nevada. As noted above, to the extent RBS directed any  
 24 communications to Experian, such communications would not have been directed to Nevada  
 25 because Experian has no offices in Nevada. (*See* Exhibit B, at ¶¶ 3-4 and Exhibits B-1 and B-2.)  
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Any information or communications received by RBS from Experian or Plaintiff would have occurred in its sole office in Texas. (*See* Exhibit A, at ¶ 5.) Thus, the FCRA claim cannot be said to arise out of or relate to any Nevada-related activities of RBS.

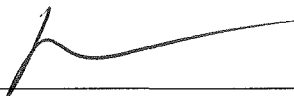
Because Plaintiff cannot establish either of these prongs, the exercise of specific jurisdiction over RBS would be inappropriate here, and the Amended Complaint must be dismissed. *See Boschetto*, 539 F.3d at 1016. Nevertheless, to the extent the Court is inclined to consider the third prong of the test, there is no doubt that requiring RBS to defend this action in Nevada would be a great burden to RBS. Forcing this Texas corporation to defend the action in a forum outside of its domicile – particularly given the non-existence of any actions of RBS within or directed to Nevada – would be inherently unreasonable, in that it would be both expensive and inconvenient. (*See* Exhibit A, at ¶ 11.) Accordingly, exercising specific jurisdiction here would not “comport with fair play and substantial justice,” and the Amended Complaint must therefore be dismissed for lack of personal jurisdiction over RBS.

### III. CONCLUSION

For all of the foregoing reasons, RBS respectfully submits that this Court has no personal jurisdiction over it, and, therefore its Motion to Dismiss must be granted.

DATED this 13<sup>th</sup> day of January, 2015.

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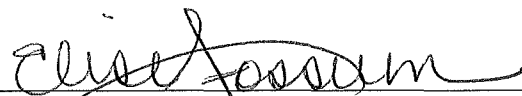
  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13<sup>th</sup> day of January, 2015, a true copy of the foregoing **Motion to Dismiss First Amended Complaint for Lack of Personal Jurisdiction** was served electronically via the Court's CM/ECF system to the following:

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